

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Sandwich Isles Communications, Inc.

WC Docket No.: 10-90  
DA 17-168  
File No.: EB-IHD-15-00019603  
NAL/Acct. No.: 201732080004  
FRN: 0001514090  
FCC Order 16-165

To: The Commission

**WAIMANA ENTERPRISES, INC.'S COMMENTS IN RESPONSE TO  
THE COMMISSION'S FEBRUARY 14, 2017 PUBLIC NOTICE**

Waimana Enterprises Inc. ("WEI") submits the following comments in response to the Commission's February 14, 2017 Public Notice respecting the Section 214 License issued to Sandwich Isles Communications Inc. ("SIC").

**The Law**

Congress has entrusted the Federal Communications Commission ("FCC") with the responsibility of ensuring all US Citizens have a 'Universal' access to communications. This is not discretionary or optional. It is the FCC's responsibility, established in the 1934 Communications Act and reconfirmed in the 1996 Telecommunications Act. This action was originally taken because of ATT's refusal to provide service beyond the urban areas despite its nationwide exclusive franchise. Although changes in the industry have eliminated the nationwide franchise, the major telecommunications carriers (ILECs) continue to refuse to provide service beyond profitable areas. It is for that very reason Congress has created financial support mechanisms to support universal service to those unprofitable areas. As the FCC's own web page says:

The Federal Communications Commission (FCC) and Congress recognize that telephone service provides a vital link to emergency services, government services and surrounding communities. To help promote telecommunications service nationwide, the FCC, as directed by Congress ... administers the federal Universal Service Fund (USF). (emphasis added).

Importantly, Congress's mandate that the FCC support universal service, requires that the FCC's support be "**specific, predictable and sufficient**" to preserve and advance universal service. 47 U.S.C. §254(b)(5). The Hawaiian Homes Commission Act (enacted by Congress in 1921 and made part of the Statehood Act, when Hawaii became a State) further mandates that the State and federal government take a number of actions with respect to lands held in trust for native Hawaiians, the Hawaiian Home Lands ("HHL"), including but not limited to "**supporting infrastructure, so that homestead lands will always be usable and accessible.**"

Congress thus entrusted the FCC with the responsibility to ensure that the rights granted to all US Citizens are available to Native Hawaiians. The 1996 licensing of SIC for trust beneficiaries living on HHL, was done because the actions of the United States Congress required it in order to fulfill the legal mandate that universal access to communications be provided to trust beneficiaries on the HHL.<sup>1</sup> The Communication Act, and the designation of Tribal Lands, of which HHL is a part, specifically recognizes that we, as a country, cannot allow Tribal Lands, especially those in rural areas, to fall further behind. All US citizens, including trust beneficiaries of HHL, should have affordable access to the benefits of modern telecommunications. SIC's section 214 licensing and authorization has allowed access to such benefits and have aided in ensuring that Congress's trust responsibilities are being fulfilled for the trust beneficiaries of HHL.

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<sup>1</sup> Just as ATT did in the continental US, the only telecommunications carrier in Hawaii, GTE Hawaiian Tel, refused and continues to refuse to provide any service to many uneconomic areas of HHL. Moreover, just as ATT does on the continent, GTE Hawaiian Tel complains incessantly about other carriers obtaining and using universal service support to provide service to persons GTE Hawaiian Tel refuses to support.

## **The Facts**

If the FCC revokes SIC's license, it takes away SIC's ability to carry out the Congressionally mandated telecommunications service to the HHL thus violating the letter and intent of the Communications Act and the Hawaiian Homes Commission Act.

There has been no showing of any wrongdoing on the part of SIC – nor anyone else -- to warrant such a sanction. Any careful examination of the facts of this matter clearly shows that this is a dispute among accountants. SIC's accountants, GVNW (the well-recognized firm specializing in utility accounting), believe their accounting is correct and have said so under oath with substantial documentary support. Furthermore, GVNW has said that Universal Service Administrative Company ("USAC") routinely accepts accounting done the same way GVNW did it for SIC.

Although SIC's accounting was done in the same way as numerous other utilities accepted by USAC, the FCC now proposes to punish SIC by revoking its license to do business in addition to fining it many tens of millions of dollars. WEI respectfully submits that preparing your books the same as other utilities is no basis to impose such harsh measures; and certainly does not justify depriving beneficiaries of the Hawaiian Homes Trust of telecommunications service. Everyone – DHHL, the FCC and the trust beneficiaries on HHL – has benefitted from the Section 214 license and authorizations. There simply are no grounds to revoke SIC's 214 license; and no justification for the damage such a revocation would do.

DATED: Honolulu, Hawaii, February 27, 2017.

/s/ Lex R. Smith

LEX R. SMITH

MARIA Y. WANG

Attorneys for Waimana Enterprises, Inc.